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**WILLIAMS, MORGAN & AMERSON**  
**10333 RICHMOND, SUITE 1100**  
**HOUSTON TX 77042**

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**FEB 16 2010**

In re Application of	:	
Brian C. Barnes et al	:	
Application No. 10/044,667	:	DECISION ON PETITION
Filed: January 11, 2002	:	
Attorney Docket No.	:	
2000.057000/TT4090	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed June 30, 2009, is accepted as having been unintentionally delayed.

Petitioner is encouraged to note the below regarding the request for waiver of the required petition fee under 37 CFR 1.137(b).

**MPEP 711.03 (c) states that:**

*[T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97<sup>th</sup> Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 (“[t]he fees set forth in this section are due on filing the petition”). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(1) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.*

Further, a review of the written record indicates no irregularity in the mailing of the Notice of Allowance on June 30, 2009.

In view of the above, the request for waiver of the petition fee paid on November 19, 2009, is dismissed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

/KOC/  
Karen Creasy  
Petitions Examiner  
Office of Petitions